IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Bail Appl..No. 5809 of 2007()

[CRIME NO.273/2007 OF MANJEESWAR POLICE STATION]

: PETITIONER/ACCUSED

B.M.K.MOHAMMED,S/O.PUTHABBA PYARI,
AGED 45 YEARS,KODALAMOGRU AMSOM,
KASARAGOD DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE,
MANJEESWAR POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5809 of 2007

Dated this the 26th day of September 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 498A I.P.C. The petitioner had married the de facto complainant on 19/9/2004. That was the second marriage of the de facto complainant. She has raised allegations of matrimonial cruelty of the culpable variety against the petitioner in a private complaint filed before the learned Magistrate which was forwarded by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that anticipatory bail can be granted to the petitioner subject to appropriate terms and conditions. I take note of the reality that the arrest and incarceration of the petitioner in custody is likely to mar the marital tie beyond repair. In this view of the matter, I reckon, the stand taken by the learned Public Prosecutor is fair and reasonable. Appropriate conditions can of course be imposed to facilitate a fair, efficient and expeditious investigation.

3. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 03/10/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 04/10/2007 and 05/10/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of six weeks and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 03/10/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 03/10/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007